

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

LAURIE KELLOGG,

Plaintiff,

-against-

NEW YORK STATE DEPARTMENT OF
CORRECTIONAL SERVICES, et al.,

Defendants.

07 Civ. 2804(BJ)

**DECLARATION IN SUPPORT
OF DEFENDANTS' MOTION TO
DISMISS THE COMPLAINT**

JANAIRE MALLOY, pursuant to 28 U.S.C. Section 1746, declares under penalty of perjury as follows:

1. I am employed by the New York State Department of Correctional Services (“DOCS”). I currently hold the position of Inmate Grievance Program (IGP) Supervisor at Taconic Correctional Facility (“Taconic”). I have held that position since August 2005. Between October 2002 and August 2005, when I transferred to Taconic, I was the IGP Supervisor at Bedford Hills Correctional Facility (“Bedford Hills”). Although I am currently at Taconic, I have been also working in the IGP at Bedford Hills since November 2007.

2. As such, I am very familiar with DOCS’ inmate grievance procedure. I am especially familiar with the grievance procedure at Bedford Hills, including the areas in which inmates can file grievances.

3. The underlying facts that comprise the claims plaintiff has raised in this lawsuit, i.e. retaliation, deprivation of property, sexual abuse, sexual harassment, cruel and unusual punishment, due process, equal protection, conspiracy and deliberate indifference to plaintiff’s serious medical needs can be grieved through the inmate grievance program at DOCS and Bedford Hills since these

alleged acts clearly involve DOCS' and Bedford Hills' policy, regulation, procedure or rule. It is a clear violation of DOCS' and Bedford Hills' policies, regulations, procedures and rules to commit any of the foregoing alleged actions against an inmate.

4. As the IGP Supervisor at Bedford Hills, I received and accepted grievances from inmates dealing with all of the foregoing claims alleged by plaintiff in this action.

5. I have conducted a search of the grievance records at Bedford Hills which reveal that plaintiff filed 3 grievances between December 2004 and July 2005 (Grievance Nos. BH14015-05, BH14301-05, BH 14257-05), dealing with a variety of issues such as requesting boxer shorts, being allowed to wear pajama sets and being denied cooking utensils, scarf and hat set and hair elastics. Grievance No. BH-13967-04 was appealed all the way to DOCS' Central Office Review Committee (CORC), the third and final level of review.

WHEREFORE, defendants motion to dismiss the complaint should be granted in its entirety.

Dated: February 8, 2008
Bedford Hills, New York

JANAIRE MALLOY